Postal Regulatory Commission Submitted 6/6/2011 2:55:56 PM Filing ID: 73159 Accepted 6/6/2011

ORDER NO. 743

UNITED STATES OF AMERICA POSTAL REGULATORY COMMISSION WASHINGTON, DC 20268-0001

Before Commissioners: Ruth Y. Goldway, Chairman;

Mark Acton, Vice Chairman;

Dan G. Blair;

Tony L. Hammond; and

Nanci E. Langley

Pleasant Ridge Station Little Rock, Arkansas

Docket No. A2011-8

ORDER AFFIRMING POSTAL SERVICE DETERMINATION

(Issued June 6, 2011)

I. INTRODUCTION

On February 15, 2011, Lou Schickel filed an appeal with the Commission seeking review of the Postal Service's determination to close Pleasant Ridge Arkansas Classified Station in Little Rock, Arkansas (Pleasant Ridge Station).¹ On February 23, 2011, an additional appeal regarding Pleasant Ridge Station was filed by Steve Reed.² After reviewing the Administrative Record provided by the Postal Service, the Commission affirms the Final Determination to close Pleasant Ridge Station.

¹ Petition for Review received from Lou Schickel, February 15, 2011.

² Petition for Review received from Steve Reed, February 23, 2011.

II. PROCEDURAL HISTORY

In Order No. 678, the Commission established Docket No. A2011-8 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any pleadings responsive to the appeal.³ On March 2, 2011, the Postal Service filed a notice in support of its decision, which also challenges the Commission's subject matter jurisdiction to hear this appeal, and indicates that it does not have an Administrative Record complying with standards applicable to post office closings for Pleasant Ridge Station.⁴ On April 11, 2011, the Postal Service filed additional comments.⁵

On March 21, 2011, Mr. Reed filed a Participant Statement expanding on his arguments against the closing.⁶ On the same day, Mr. Schickel filed a Participant Statement in support of his appeal.⁷ He also filed an initial brief.⁸

The Commission issued an information request asking the Postal Service to provide the Administrative Record supporting its Final Determination to close Pleasant

 $^{^3}$ Notice and Order Accepting Appeal and Establishing Procedural Schedule, February 23, 2011 (Order No. 678).

⁴ Notice of United States Postal Service, March 2, 2011 (Notice). The Notice includes three exhibits: Exhibit 1, Final Determination to Close the Pleasant Ridge, AR Classified Station and Continue to Provide Retail, City Delivery and Post Office Box Service Through the Westside, AR Classified Station (Final Determination); Exhibit 2 identifies four additional Postal Service retail facilities near ZIP Code 72212; and Exhibit 3 identifies five additional locations to buy stamps.

⁵ Comments of United States Postal Service, April 11, 2011 (Postal Service Comments).

⁶ Participant Statement received from Steve Reed, March 21, 2011 (Reed Statement).

⁷ Participant Statement received from Lou Schickel, March 21, 2011 (Schickel Statement). The Schickel Statement includes three exhibits: Exhibit 1, Pleasant Ridge Post Office—Traffic Counts; Exhibit 2, two maps of Little Rock, Arkansas; and Exhibit 3, Dear Postal Customer Letter/Notice of Closure.

⁸ Initial Brief in Support of Petition, March 22, 2011 (Schickel Brief).

Ridge Station.⁹ On April 26, 2011, the Postal Service filed the Administrative Record with the Commission.¹⁰

III. BACKGROUND

Pleasant Ridge Station is located in Little Rock, Arkansas. The community surrounding Pleasant Ridge Station is comprised of approximately 185,000 citizens, single family homes, and shopping centers with small retail businesses. Final Determination at 3. The Postal Service has decided to close Pleasant Ridge Station and provide retail and delivery services through Westside Arkansas Classified Station (Westside Station) located approximately 0.53 miles away.¹¹ *Id.* at 5.

Pleasant Ridge Station provided service 42.5 hours per week from 8:45 a.m. to 5:00 p.m., Monday through Friday and 10:30 a.m. to 12:00 p.m. on Saturday, to retail customers, 448 post office box customers and city delivery customers. *Id.* at 1. Retail services include the sale of stamps, stamped paper, money orders, and special services, *e.g.*, Registered and Certified Mail. *Id.* The Postal Service indicates that since FY 2008, retail transactions have declined by 2.8 percent. *Id.*

Retail and delivery service will be provided at Westside Station. *Id.* Post office box customers will be able to retain their address if they move to Westside Station. City delivery customers will have to go to Westside Station for packages and accountable items that the carrier was unable to deliver. *Id.*

¹⁰ See Response of the United States Postal Service to Commission Information Request No. 1, April 19, 2011; see *also* United States Postal Service Notice of Filing and Application for Non-Public Status, April 26, 2011, which included a non-public copy of the Administrative Record (Non-Public Administrative Record). A redacted copy was filed publically by the Postal Service on April 28, 2011.

⁹ Commission Information Request No.1, April 19, 2011.

¹¹ The Commission finds there is an apparent discrepancy in estimating the distance between Westside Station and Pleasant Ridge Station. The Postal Service estimates the distance to be 0.53 miles; Mr. Schickel estimates the distance to be 2.3 miles. The added distance, assuming the higher estimate, may increase the inconvenience to certain customers. However, the inconvenience should be ameliorated for many customers by the 4 contract postal units and 30 alternative retail sites located within 5 miles of Pleasant Ridge Station, and Chenal Station located approximately 2.4 miles away. *Id.* at 1.

On November 12 and 13, 2009, the Postal Service distributed questionnaires to Pleasant Ridge Station delivery customers. *Id.* Questionnaires were available over the counter for retail customers at Pleasant Ridge Station. A total of 6,044 questionnaires were distributed and 1,382 questionnaires were returned. *Id.*

IV. PARTICIPANT PLEADINGS

Mr. Reed's pleadings. Mr. Reed opposes closing Pleasant Ridge Station. Reed Statement at 1. He argues that the closure will not save the Postal Service a substantial amount of money. *Id.* Mr. Reed claims that statistical data indicate that the area surrounding Pleasant Ridge Station continues to grow. *Id.* at 1-2. He adds that it defies logic to close Pleasant Ridge Station and retain older stations in areas of the city that have seen minimum growth over the years. *Id.* at 2.

Mr. Schickel's pleadings. Mr. Schickel contends that the Commission has jurisdiction over this matter. He asserts that the Postal Service's statement that it would not be constructive to move to dismiss this proceeding is an admission that the Commission has jurisdiction over the closing. Schickel Brief at 1-2.

Mr. Schickel contends that the Postal Service's decision should be reversed and returned to the Postal Service for further consideration. Schickel Statement at 1. He lists several reasons in support of his position, including:

- the Postal Service's failure to follow closing procedures by not posting the Proposal or Final Determination to close Pleasant Ridge Station at the facility;
- questionable economic savings reported by the Postal Service; and
- the effect the closing will have on members of the community.

Mr. Schickel disagrees with the Postal Service's statement that there has been minimal growth in the area surrounding Pleasant Ridge Station. *Id.* at 2. He asserts that at least 45 new businesses have opened in the last 4 years. He adds that when Pleasant Ridge Station opened in 1996 there were 3 businesses and 500 apartments in

the area. Mr. Schickel explains that today there are 134 businesses and 800 apartments surrounding Pleasant Ridge Station. *Id.*

Mr. Schickel raises concerns regarding the questionnaires distributed by the Postal Service. He explains that postal customers with the 72212 ZIP Code received questionnaires intended for customers of South Fort Smith Station. He adds that after the error was detected, additional questionnaires with the correct post office name were issued. Mr. Schickel contends that the Postal Service's mistake caused confusion and was the reason for the limited number of returned questionnaires. *Id.*

Postal Service pleadings. The Postal Service contends that since its decision involves closing a station and not a post office, the Commission lacks subject matter jurisdiction to review its actions. Postal Service Comments at 1. The Postal Service also argues that since customers of Pleasant Ridge Station will continue to have access to postal services in close proximity to Pleasant Ridge Station, the procedural requirements of 39 U.S.C. 404(d) do not apply. *Id.* at 2 (referencing Order No. 477, Docket No. A2010-3, June 22, 2010, at 7-8).

The Postal Service adds that even if section 404(d) was applicable to the discontinuance of Pleasant Ridge Station, the Postal Service has satisfied the salient provisions of section 404(d). *Id.* at 2. The Postal Service explains that on November 12 and 13, 2009, it distributed questionnaires to customers notifying them of the possible discontinuance of Pleasant Ridge Station and inviting comments on the potential change to the postal retail network. *Id.* at 2-3; *see also* Final Determination at 1. This notice maintains the Postal Service furnished customers well over 60 days' notice of the Postal Service's intent to consider discontinuance of the facility. Postal Service Comments at 3. It also contends that upon making the decision to discontinue Pleasant Ridge Station, the Postal Service provided notice to customers of the decision by letter dated February 4, 2011, more than a month before the closure date. *Id.*

The Postal Service insists that it further considered all pertinent criteria of section 404(d) and that customers provided input related to services. *Id.* at 4.

V. COMMISSION ANALYSIS

A. Notice to Customers

Mr. Schickel contends that the Pleasant Ridge Station closing is subject to the requirements of section 404(d). Schickel Brief at 1. He argues that the Postal Service failed to follow the post office closing procedures described therein. Schickel Statement at 2-3. He begins by asserting that the Postal Service, in making its closure decision, failed to post its proposal to close and allow 60 days for patrons to comment.

Before the Postal Service made its final decision to close Pleasant Ridge Station, it notified customers of the possible closure and sought customer input on the matter. On November 12 and 13, 2009, questionnaires regarding the possible closure were distributed. Of the 6,044 questionnaires distributed, 1,382 were returned to the Postal Service; 169 were favorable, 808 were unfavorable, and 405 expressed no opinion regarding the proposed alternate service. Final Determination at 1. The distribution of questionnaires and the return of 1,382 responses is an indication that patrons of the Pleasant Ridge Station received notice of the Postal Service's closure plans.

Mr. Schickel believes that the number of questionnaires returned was low and likely the result of a mistake made by the Postal Service. Schickel Statement at 2; see also Administrative Record, Item No. 13 at 2.¹³

Several questionnaires appearing in the Administrative Record do inquire about customers' utilization of South Fort Smith Station. However, many customers took it upon themselves to correct the form by crossing out the South Fort Smith Station name and replacing it with the Pleasant Ridge Station name. *See, e.g.,* Administrative

¹² Pleasant Ridge Station was included in the Postal Service's Station and Branch Optimization and Consolidation Initiative. In an advisory opinion in response to this initiative, the Commission recommended that the Postal Service adopt uniform closure and consolidation provisions for all retail Postal Service facilities. Having a uniform process would ensure that customers receive adequate notice and time to provide input to the Postal Service without appreciably delaying the Postal Service from closing any facility that can otherwise justifiably be closed. *See* Docket No. N2009-1, Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches, March 10, 2010, at 64.

¹³ The corrected questionnaire appears at Administrative Record, Item No. 13 at 7.

Record, Item No. 13 at 548, 549, 551, and 552. Furthermore, as Mr. Schickel indicates, the Postal Service detected and corrected this problem by issuing corrected questionnaires.

Mr. Schickel also contends that the Postal Service failed to post its Final Determination instructing patrons of the process for initiating an appeal. Schickel Statement at 2.

On February 4, 2011, the Postal Service informed customers of its decision to close Pleasant Ridge Station as of March 26, 2011. Mr. Schickel and Mr. Reed filed timely appeals, which were accepted by the Commission. Thus, the failure to provide notice caused the petitioners no injury and brought the interests of the Pleasant Ridge Station customers to the attention of the Commission.

Related to keeping customers adequately informed, the Commission does not find any indication that the official Final Determination or Administrative Record were initially made available to Pleasant Ridge Station customers. The Postal Service filed a copy of the Final Determination to close Pleasant Ridge Station on March 2, 2011, and non-public and public copies of the Administrative Record in this proceeding on April 26, 2011 and April 28, 2011, respectively. At that time, Mr. Reed and Mr. Schickel and other interested parties were afforded an opportunity to review the record and file supplemental comments. The Final Determination and Administrative Record should have been made available to customers at the outset. However, any prejudice caused by the failure to do so initially has been cured by their subsequent inclusion in the record.

The record in this proceeding indicates that customers of Pleasant Ridge Station were afforded adequate notice that the Postal Service was reviewing Pleasant Ridge Station for possible closure. Customers were given an opportunity to provide input to the Postal Service in writing. In addition, customers were duly informed of the decision to close Pleasant Ridge Station and two appeals were timely filed.

Based on review of the record, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. 404(d).

B. Other Statutory Considerations

Under section 404(d)(2)(A), in making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; whether a maximum degree of effective and regular postal service will be provided; the effect on postal employees; and the economic savings to the Postal Service.

Effect on community. The Postal Service concludes that this proposal will not adversely impact the community. Final Determination at 4. The Postal Service contends that there has been minimal growth in the area in recent years. The Administrative Record indicates that between the years 2000 and 2006 the population in the city of Little Rock has increased by 0.7 percent. Administrative Record, Item No. 3 at 2. The Postal Service contends that service through the Westside Station and the other contract postal units, post offices, station, and branches within the area is expected to be able to handle any future growth in the community. Final Determination at 4.

Effective and regular service. Customers express concern over members of the community having to change their addresses. *Id.* at 2. Pleasant Ridge Station provides Box Service to 448 customers. *Id.* at 1. The Postal Service indicates that customers will be able to maintain their current post office box number address by using the Westside Station. *Id.* at 2. The record reflects that there are an adequate number of vacant post office boxes at Westside Station to accommodate Pleasant Ridge customers. Non-Public Administrative Record at 24-25. Customers choosing city delivery service will require an address change. Final Determination at 1.

Customers express concern that relocating the Pleasant Ridge Station post office box section to Westside Station would be inconvenient for customers living in the community. *Id.* at 1. The Postal Service responds that it plans to move the post office box section to Westside Station because there is room to accommodate more boxes at that location. *Id.* at 2. The Administrative Record indicates that Westside Station is

9,625 square feet larger than Pleasant Ridge Station. Administrative Record, Item No. 5, at 4. The Postal Service adds that customers have the option of city delivery service to their residence or renting a post office box at the Chenal or Brady Finance Station located approximately 2.4 miles away. *Id.* at 2.

Customers express concern that the closing would create long lines at Westside Station. The record indicates that the average wait time at Westside Station is shorter than Pleasant Ridge Station. Non-Public Administrative Record at 9, 14. The Postal Service responds that its goal is to keep wait time in line at 5 minutes or under. Final Determination at 2. The Postal Service adds that it will continue to monitor window operations to try to alleviate any excessive wait time in line to obtain services. *Id.* Customers indicate concerns about the loss of the friendly atmosphere created by the clerks and carriers at Pleasant Ridge Station. The Postal Service explains that courteous and helpful service will be provided by the personnel at Westside Station and from carriers. *Id.*

As the Postal Service acknowledges (Final Determination at 2), some customers will be inconvenienced by the closing of Pleasant Ridge Station. Nonetheless, the Postal Service appears to have offered customers alternative service. In sum, the steps that the Postal Service has taken support the conclusion that Pleasant Ridge Station customers will continue to receive effective and regular service.

Economic savings and effect on employees. Mr. Schickel contends that the figures released by the Postal Service are unsupported. Schickel Statement at 3. The Postal Service projects total estimated annual savings of \$296,906. Final Determination at 4. The Postal Service provides a breakdown of the estimated savings which includes: \$46,691 for EAS Manager Salary (EAS-19, Minimum); \$13,107 for maintenance; and \$142,739 for Inter-Station Mail Transportation. *Id*.

Mr. Reed contends that the Postal Service should maintain Pleasant Ridge Station and close an older station in an area with less growth. Reed Statement at 2. The record indicates that the facility housing the Pleasant Ridge Station is a leased facility in which the Postal Service pays an annual lease rate of \$123,000, while the

facility housing Westside Station is owned by the Postal Service. Administrative Record, Item No. 5 at 4.

Customers expressed concern about Pleasant Ridge Station employees being laid off as a result of the consolidation. The Postal Service responds that employees will be reassigned to surrounding postal facilities. Final Determination at 2. "The clerks will be reassigned to the Westside Station and maintain bidding status within that office. The EAS manager will be reassigned to a vacant Manager position within the city of Little Rock." *Id.* at 4.

The record indicates that the Postal Service has considered the economic impact of its closure decision and taken steps to address the effect on employees. Based on a review of the record, the Commission concludes that the Postal Service has satisfied the requirements of section 404(d)(2)(A).

VI. CONCLUSION

Based on a review of the record in this proceeding, the Commission finds no basis to set aside the Postal Service's determination to close Pleasant Ridge Station. Accordingly, its determination to close Pleasant Ridge Station is affirmed.

It is ordered:

The Postal Service's Final Determination to close Pleasant Ridge Station is affirmed.

By the Commission.

Shoshana M. Grove Secretary

Concurring Opinion of Chairman Goldway

The Postal Service developed an extensive record on this action which supports its decision. Nonetheless, I take this opportunity to express concern that the Postal Service appears to be proceeding to close an increasing number of facilities even while it is considering proposed Discontinuance Rules revisions designed to improve its decision-making process, and in particular the ability of concerned members of the public to participate meaningfully in that process. The public would be better served if improved procedures were implemented and followed before additional facilities are closed.

Ruth Y. Goldway